



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0114]

RIN 1625-AA08

Special Local Regulations; Red Bull Flugtag National Harbor Event, Potomac River; National Harbor Access Channel, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the "Red Bull Flugtag National Harbor event", to be held on the waters of the Potomac River on September 21, 2013. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. These special local regulations will establish an event area, where all persons and vessels, except those persons and vessels participating in the Flugtag event, are prohibited from entering, transiting through, anchoring in or remaining within, and a spectator area, where all vessels are prohibited from transiting in excess of wake speed, unless authorized by the Captain of the Port Baltimore or his designated representative. This action is intended to temporarily restrict vessel traffic in a portion of

the Potomac River during the event.

DATES: This rule is effective from 9 a.m. until 7 p.m. on September 21, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0114]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On March 26, 2013, we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations; Red Bull Flugtag National Harbor Event, Potomac River; National Harbor Access Channel, MD" in the Federal Register (78 FR 18274). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Red Bull Flugtag National Harbor event.

On September 21, 2013, The Peterson Companies of National Harbor, Maryland, is sponsoring the Red Bull Flugtag National Harbor event, a competition held along the Potomac River at National Harbor, Maryland. Approximately 30 competing teams will operate homemade, human-powered flying devices launched from a ramp constructed at National Harbor, located downriver from the Woodrow Wilson Memorial (I-495/I-95) Bridge, in Maryland. The competitors will be supported by sponsor-provided watercraft. The sponsor estimates 10,000 spectators during the event. The Coast Guard anticipates a large spectator vessel fleet present during the event.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

The Coast Guard is establishing special local regulations on specified waters of the Potomac River. The regulations will be effective from 9 a.m. to 7 p.m. on September 21, 2013. The regulated area, approximately 600 yards in length and 500 yards in width and extends across the entire width of the National Harbor Access Channel, includes all waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude 077°01'31" W, thence northerly to position latitude 38°47'02" N, longitude 077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude 077°01'22" W, thence southeasterly to the shoreline at position latitude 38°46'56" N, longitude 077°01'07" W. An event area and a designated spectator area exist within this regulated area. The event area, where all persons and vessels, except those persons and vessels participating in the competition, are prohibited from entering, transiting through, anchoring in, or remaining within, includes all waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude 077°01'31" W, thence northerly to position latitude 38°46'52" N, longitude 077°01'31" W, thence easterly to position latitude 38°46'54" N,

longitude 077°01'17" W, thence northerly to position latitude 38°46'59" N, longitude 077°01'14" W, thence southeasterly to the shoreline at position latitude 38°46'56" N, longitude 077°01'07" W. The designated spectator area, where all vessels are prohibited from transiting in excess of wake speed unless authorized by the Captain of the Port Baltimore or his designated representative and persons and vessels may request authorization to enter, transit through, anchor in, or remain within, includes all waters of the Potomac River, within lines connecting the following positions: from 38°46'53" N, longitude 077°01'32" W, thence northerly to latitude 38°47'02" N, longitude 077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude 077°01'22" W, thence southeasterly to position latitude 38°47'02" N, longitude 077°01'16" W, thence southwesterly to position latitude 38°46'58" N, longitude 077°01'18" W, thence southwesterly to position latitude 38°46'55" N, longitude 077°01'22" W, thence westerly to position latitude 38°46'53" N, longitude 077°01'32" W.

The effect of this rule will be to restrict general navigation in the regulated area during the event. Vessels intending to transit the Potomac River through the regulated area, including the National Harbor Access Channel, will only be allowed to safely transit the regulated area when the Coast

Guard Patrol Commander has deemed it safe to do so. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be enforced for only 10 hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain

within the event area, without authorization from the Captain of the Port Baltimore or his designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the designated spectator area during the enforcement period; (4) persons and vessels may still enter and transit through the National Harbor Access Channel, within the regulated area during the enforcement period, with prior authorization from the Captain of the Port Baltimore or his designated representative and without loitering; and (5) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic

impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Potomac River encompassed within the special local regulations from 9 a.m. until 7 p.m. on September 21, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the

Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their

discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further

review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35-T05-0114 to read as follows:

§ 100.35-T05-0114 Special Local Regulations; Red Bull Flugtag National Harbor Event, Potomac River; National Harbor Access Channel, MD.

(a) Regulated areas. The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) Regulated area. All waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude 077°01'31" W, thence northerly to position latitude 38°47'02" N, longitude

077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude 077°01'22" W, thence southeasterly to the shoreline at position latitude 38°46'56" N, longitude 077°01'07" W.

(2) Event area. All waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude 077°01'31" W, thence northerly to position latitude 38°46'52" N, longitude 077°01'31" W, thence easterly to position latitude 38°46'54" N, longitude 077°01'17" W, thence northerly to position latitude 38°46'59" N, longitude 077°01'14" W, thence southeasterly to the shoreline at position latitude 38°46'56" N, longitude 077°01'07" W.

(3) Designated spectator area. All waters of the Potomac River, within lines connecting the following positions: from 38°46'53" N, longitude 077°01'32" W, thence northerly to latitude 38°47'02" N, longitude 077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude 077°01'22" W, thence southeasterly to position latitude 38°47'02" N, longitude 077°01'16" W, thence southwesterly to position latitude 38°46'58" N, longitude 077°01'18" W, thence southwesterly to position latitude 38°46'55" N, longitude 077°01'22" W, thence westerly to position latitude 38°46'53" N, longitude 077°01'32" W.

(b) Definitions. (1) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector

Baltimore.

(2) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) Participant means all persons and vessels participating in the Red Bull Flugtag National Harbor event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) Spectator means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) Special local regulations. (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol vessel, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property.

(3) All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(4) Only participants and official patrol are allowed to enter the event area.

(5) Spectators are allowed inside the regulated area only if they remain within the designated spectator area. Spectators will be permitted to anchor within the designated spectator area. No vessel may anchor within the regulated area outside the designated spectator area. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area, outside the event area, at a safe speed and without loitering.

(6) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Enforcement period. This section will be enforced from 9 a.m. until 7 p.m. on September 21, 2013.

Dated: May 1, 2013

Kevin C. Kiefer
Captain, U.S. Coast Guard
Captain of the Port Baltimore.

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